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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JACOB RIFE,

Defendant and Appellant.

D055282

(Super. Ct. No. SCD216449)

APPEAL from a judgment of the Superior Court of San Diego County, David J. Danielsen, Judge. Affirmed as modified with directions.

Jacob Rife entered a negotiated guilty plea to three counts of residential burglary (Pen. Code, §§ 459, 460) and admitted that another person, other than an accomplice, was present in the residence during one of the burglaries (Pen. Code, § 667.5, subd. (c)(21)). The court sentenced Rife to five years four months in prison: the four-year middle term on one count, one year four months (one-third the middle term) on another count and a concurrent term on the remaining count. Rife appeals. We order the abstract of judgment corrected and affirm.

## BACKGROUND

On September 3, 2008, Rife and codefendant Michael Fanghella entered a home through a window and took a \$2,000 notebook computer.

On September 24, 2008, Rife and Fanghella broke a window and entered another home. They took jewelry worth approximately \$56,000.

On September 25, 2008, Rife and Fanghella rang the doorbell of a third home. The residents were home, but did not respond. One of the residents looked out the window and saw Rife and Fanghella. Moments later, the resident heard noises from the front of the house. The resident confronted one of the defendants, who said he was looking for a neighbor and then fled to his vehicle.

## DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel lists, as possible but not arguable issues, (1) whether the abstract of judgment should be corrected to reflect the court's oral pronouncement that the \$21,959 in victim restitution was imposed jointly and severally with Fanghella and (2) whether the court abused its discretion by denying defense counsel's request that the court impose the lower term for the base term instead of the four-year middle term.

The court ordered \$21,959 in restitution to the victim whose jewelry was taken and stated Rife and Fanghella were jointly and severally liable for that amount. The

abstract of judgment does not reflect joint and several liability. Fanghella pleaded guilty to the same counts as Rife and the order for joint and several liability was appropriate. (See *People v. Leon* (2004) 124 Cal.App.4th 620, 622.) We order the abstract corrected to reflect the \$21,959 victim restitution obligation is joint and several. (*People v. Samaniego* (2009) 172 Cal.App.4th 1148, 1183.)

We granted Rife permission to file a brief on his own behalf. He has not responded. A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues listed pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issues. Rife has been competently represented by counsel on this appeal.

#### DISPOSITION

The judgment is modified to reflect the \$21,959 victim restitution obligation is joint and several with codefendant Fanghella. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation.

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NARES, Acting P. J.

WE CONCUR:

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McDONALD, J.

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IRION, J.